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SUBJECT: TUNISIA INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT
PART II -- MONEY LAUNDERING AND FINANCIAL CRIMES

REF: STATE 114960

TUNIS 00000896 001.2 OF 003

¶1. There is no discernible money laundering or terrorist finance activity occurring in Tunisia. Tunisia is not considered an important regional financial center due in large part to the very strict control exercised by the Central Bank over financial transactions, particularly those involving foreign currency. Since 2003, Tunisia has taken important steps to create a legal framework for the monitoring, investigation and prosecution of money laundering and financial crimes. By creating an interagency Financial Analysis Commission headed by the Central Bank Governor, Tunisia has also established effective oversight and coordination capabilities.

¶2. In December 2003, the Tunisian Parliament passed Law No. 2003-75, a comprehensive counterterrorism and anti-money laundering law, to support international counterterrorism efforts and to establish more severe sentences for individuals convicted of terrorist acts. This law makes it a crime to provide financial assistance or any other type of support to terrorist activities, and provides for the freezing of assets. Those suspected of violating the law can be exempted from charges, however, if they report a planned terrorist action to authorities. Money laundering is punishable where false information is proffered relating to the illicit origin of property or income arising directly or indirectly from an offense. Money laundering is also defined as investing, depositing, transferring or safekeeping of property or income resulting from an offense. The law does not delineate specific crimes; rather it broadly states that money laundering related to "a crime or infraction" is illegal. Tunisia's 1992 law (Law No. 1992-52) against narcotics trafficking also includes provisions that contribute to combating money laundering. Under Articles 2 and 30 of Law No. 1992-52, anyone aiding in narcotics operations or the transfer of proceeds in connection with these operations, including financial institutions, can be prosecuted.

¶3. On August 12, 2009, the Tunisian legislature passed Law No. 2009-65 as an amendment to law 2003-75. The new law is intended to harmonize national legislation with UN Anti-Money Laundering/Anti-Terrorist Financing (AML/ATF) resolutions, and to implement the recommendations made in the 2007 Mutual Evaluation Report of the Middle East and North Africa Financial Action Task Force (MENAFATF). The modifications include: improving databases to prevent terrorist financial transactions; protecting the identity of individuals interviewed within investigation operations on terrorism and money laundering; extending the period allowed for a public prosecutor to issue his judgment on investigations carried out by the Financial Analysis Commission from two to five days; and enhancing measures for review of fund transfers, according to both the nature of activity to which the funds are related to and the

financial transaction type. Law No. 2009-65 also provides new penal measures, including six months to three years imprisonment and a fine of 5,000 to 10,000 dinars ($3,869 to $7,738) for any individual (including traders of jewelry and gems, managers of casinos, and legal representatives and agents) linked to criminal financial operations.

¶4. According to Samir Brahimi, the Central Bank official responsible for coordinating Tunisia's AML/ATF efforts, the passage of Law No. 2009-65 was deliberately timed to coincide with the passage of another law partially liberalizing financial services for the off-shore sector. According to Brahimi, the two measures were released simultaneously in order to send a message that Tunisia's gradual opening to international financial markets would be carefully coordinated with AML/ATF efforts.

¶5. The Tunisian penal code also allows for the sequestering, confiscation, or seizure of assets and property in certain situations, including narcotics trafficking and terrorist activities. The definition of "assets" is broad and covers any number of financial or physical assets. Financial assets are traced by the Central Bank and Financial Analysis Commission, each of which has broad powers for investigating and seizing financial assets. Following an initial freeze of assets, authorities have four days to present additional supporting evidence before the assets must be released. At any time, the reviewing magistrate can release frozen assets if he or she determines the evidence does not support such measures. Tunisia has no legal provisions for sharing seized criminal assets with other governments.

¶6. In 2003, Tunisia created an interagency Financial Analysis Commission that includes representatives from the Central Bank, Ministry of Finance, Ministry of Interior, Customs and the judiciary. The Central Bank Governor acts as head of the commission, which has both an investigatory and advisory role in

combating money laundering and terrorist financing. The Financial Analysis Commission has oversight functions for banks, non-banking financial institutions such as stock brokerages, insurance companies and casinos, intermediaries such as lawyers as well as non-governmental organizations. In April 2006, the Financial Analysis Commission issued a directive ordering all Tunisian banks to designate a compliance officer, who serves as the direct liaison with the Financial Analysis Commission.

¶7. Under Law 2003-75, as amended, all institutions or intermediaries must report any suspicious, or unusual, transactions to the Tunisian Financial Analysis Commission and freeze related accounts. Financial institutions are also required to report all transactions above 5,000 dinars (US $3,869). Although the Financial Analysis Commission reports a rise in the number of suspicious transaction reports (STRs) received over the past several years, this is attributed to better reporting rather than an actual increase in suspicious transactions. In accordance with the recommendations of the MENAFATF Mutual Evaluation Report, Law No. 2009-65 no longer mandates the automatic freezing of accounts subject to an STR, but rather instructs banks to allow the transaction so that authorities can trace the destination of the funds. To date, Tunisia has not had any money-laundering or terror finance prosecutions.

¶8. Law 2003-75, as amended, also imposes obligations on all financial institutions to gather full identifying information for personal and business accounts. There are no anonymous or numbered accounts allowed in Tunisia. Additionally, all bookkeeping, accounting, and supporting documentation, in both paper and electronic form, must be maintained for 10 years.

¶9. Banks report regularly receiving the US Government and United Nations 1267 Sanctions Committee freeze lists from the Central Bank. The Financial Analysis Commission reports that it has never discovered any accounts or assets belonging to a listed individual or entity.

¶10. The Central Bank retains strict control over foreign currency operations. The Tunisian dinar is not fully convertible and it is

illegal to export dinars. Residents are generally prohibited from holding or exporting foreign currency except for certain purposes, such as travel or business, and are limited in the value of foreign currency that can be used for these purposes. Only certain categories of individuals and businesses are allowed to open foreign currency or convertible dinar accounts and all of these accounts are monitored by the Central Bank.

¶11. The import and export of foreign exchange is regulated by Article 76 of Law No. 2003-75. There is no explicit mention of cash couriers or cash smuggling in Tunisian law. Non-residents must declare the import of foreign exchange equivalent to or in excess of a ceiling fixed by the Ministry of Finance. Currently, the Ministry of Finance has set the ceiling at the foreign currency equivalent of 25,000 dinars (about US $19,330). Non-residents entering Tunisia with foreign currency or other instruments worth less than 25,000 dinars are required to declare the total amount if they wish to re-export or deposit more than 5,000 dinars (US $ 3,869). Non-residents do not need to declare currency exports under 5,000 dinars. Customs may at any time require declarations for gold or securities.

¶12. Although all fund transfers must go through formal banking institutions or the National Post Office, these restrictions and currency exchange controls may encourage underground methods of moving money or transferring value in and out of the country. Remittances from abroad are a major source of hard currency, though there is no evidence of an organized alternative transfer system such as hawala. A significant black market in consumer goods does exist in the country but is not believed to be funded by illicit proceeds.

¶13. All offshore financial institutions are held to the same regulatory standards as onshore financial institutions. Offshore financial institutions undergo the same due diligence process as onshore banks and are licensed only after the Central Bank investigates their references and the Ministry of Finance approves their application. Anonymous directors are not allowed. Tunisia currently has eight offshore banks and a considerable number of offshore international business companies. Offshore international business companies are subject to all regulatory requirements, except for tax requirements and currency convertibility restrictions. There are five casinos in Tunisia. Although Tunisians are not legally permitted to use them, in practice Tunisians are able to circumvent this restriction. Bearer financial instruments or shares are strictly prohibited (Act No. 35 of 2000).

¶14. Tunisia has two free trade zones, in Bizerte and Zarzis, with a limited number of companies manufacturing products for export. There are no offshore financial institutions located in either free trade zone. There have been no reports of trade-based money laundering or terrorist financing activities using either free trade zone. Government customs officials are present on site at the free trade zones and at qualifying companies to supervise export activities. Prior to opening a business in one of the two free trade zones, the company must conclude a contract with the free trade zone authority outlining project details, but are not required to produce a company history.

¶15. Tunisia is a founding member of the Bahrain-based MENAFATF, approved in November 2004. Tunisia is a party to both the 1988 UN Drug Convention and the 1999 UN International Convention for the Suppression of Financing of Terrorism. Tunisia has signed and ratified the UN Convention against Transnational Organized Crime. Tunisia signed the UN Convention Against Corruption in 2004, but has not yet ratified the agreement. Tunisia has submitted its candidacy to the Egmont group. Tunisia has bilateral agreements on "criminal matters" with 29 countries and is party to 12 international agreements on counterterrorism.

¶16. Embassy point of contact is Economic Officer Pete Davis (E-mail: DavisPJ@state.gov; Phone: 216-71-107-431).